

MEMORANDUM

VIA ELECTRONIC MAIL

TO: ENVIRONMENTAL DATA STANDARD COUNCIL

FROM: ENFORCEMENT AND COMPLIANCE DATA STANDARD ACTION TEAM
CO-CHAIRS

DATE: JANUARY 25, 2002

RE: TRANSMITTAL OF THE ENFORCEMENT AND COMPLIANCE DATA
STANDARD

The Enforcement and Compliance Data Standard Action Team is pleased to provide the Environmental Data Standards Council (EDSC) with the final Action Team draft of the Enforcement and Compliance Data Standard. The credit for the creation of this important work goes to the Action Team members and all those who have supported this effort.

Background and Recommendation

The Enforcement and Compliance Data Standard Action Team, formed under the aegis of the EDSC, began its deliberations in August of 2000 with the goal of creating a common lexicon of terminology for enforcement and compliance information. The lexicon consists of individual data elements formed as a whole into a data standard.

The Action Team consisting of State and EPA participants and Tribal correspondents was able to develop a robust set of data elements describing many common aspects, terms, and processes associated with enforcement. The final draft of the data standard for Enforcement and Compliance is attached. This list of data elements including notes and explanations, has been reviewed and is recommended for EDSC adoption by the Action Team members without exception.

Public and Agency Comment Process

This standard reflects the comments received from EPA and State programs, practitioners, and the public gathered during two comment processes. A draft of the standard was circulated among EPA programs, EPA Regions, and State programs during June and July of 2001. Comments received were reviewed and incorporated as appropriate. A revised draft was then presented to the EDSC for its review during its September 17, 2001 conference call. The EDSC directed that the draft be provided for public comment in a Notice of Information Availability published October 4, 2001 (66 FR 50644) for a 45-day comment period. The Environmental Council of the States (ECOS) also circulated the standard to State agencies via an e-mail distribution to interested parties within the States. The draft was circulated to tribal organization lists and consultation was initiated with the Tribal representatives of the EDSC to

facilitate Tribal organization review. The comments received were again reviewed and modifications made to the standard as appropriate. The Action Team's responses to the comments received are reflected in both the Action Team Final Draft of the standard and the document entitled, "Responses to Consolidated Comments from October 4, 2001 Federal Register Notice (66 FR 50644)".

Action Team Considered Environmental Benefits and Compliance Assistance Draft Data Elements

During these efforts a series of concepts and potential data elements related to "environmental benefits" of enforcement actions and elements describing "compliance assistance" activities also were identified as helpful for measuring outcomes. These describe many valuable activities underway in State and EPA enforcement programs that utilize methods other than the widely understood and adopted enforcement framework. These potential data elements were subject to considerable deliberation, and in the case of "compliance assistance" terms, a separate ad hoc portion of the Action Team met to deliberate, develop, and define a set of data elements. The ad hoc group included participation from experts in this area who lent their knowledge and experience to the effort.

Forty-three data elements were developed in the compliance assistance area and were included with the enforcement data elements distributed for public comment by the EDSC in October and November of 2001. The material that described these data elements made note of the fact that, "It [compliance assistance] does not have a basis in long-established practice and program-to-program data exchange. It is included for comment in the notice as a way to receive State and other data exchange partner reaction to its form and impact on systems as an area for potential new data exchange".¹

A smaller number of data elements also were developed for "environmental benefits" of enforcement actions. The Action Team concluded, however, that there were unresolved issues with respect to these data elements and so they were not circulated for public comment.

Issues Preclude Adoption as Part of Enforcement and Compliance Data Standard

The nature of the comments received during the comment period reinforced the Action Team's sense that while these information areas are potentially very valuable for program evaluation and measurement of results, the suggested data elements did not meet the high threshold for completeness and acceptance as did the enforcement/compliance data elements.

In addition, other issues related to these data elements were raised for Action Team consideration. Many of these data elements, unlike the enforcement/compliance data elements,

¹ 66 FR 50644; October 4, 2001

can be described as indices or measurements; some in fact hinge on the units of measurement selected. This is very different than the primary work of the Action Team on the enforcement/compliance data elements that defined known terms and did not grapple with appropriate measurement or creation of indices and their policy implications.

Finally, many of the potential data elements in these areas represent potential new data collections— again, information that does not have a long practice of program-to-program data exchange.

Summary and Recommendation Regarding Compliance Assistance and Environmental Benefits Data Elements

The Action Team is not transmitting the compliance assistance data elements or the environmental benefits data elements for adoption by the EDSC at this time. The Action Team commends the compliance assistance data elements and the potential measures of environmental benefits from enforcement activities as important areas of information that should receive further deliberation and potential adoption as a data standard. The work completed by the Action Team and the ad hoc group on these matters and the potential data elements developed should be recognized for their value in advancing this area of discussion.

This work and its value should not be lost—the Action Team strongly recommends that the EDSC consider further official action to hone and refine data elements developed in these areas for inclusion in a data standard considered for EDSC consideration, adoption, and use. The Action Team further recommends that these areas be considered for further action and deliberation as a part of a potential new standards development process and during the EDSC’s regular standards maintenance review process including but not limited to the first scheduled annual review for the Enforcement and Compliance Data Standard.

Finally, the draft “Environmental Benefits of Enforcement Action” and “Compliance Assistance” Data Elements Lists both dated January 25, 2002 should be retained and posted on the EDSC and EDR Web site with appropriate information about their draft nature and their status.

Additional Notes and Recommended EDSC Actions

In addition to adoption of the Enforcement and Compliance Data Standard, the Action Team is providing the following notes and recommendations for the consideration and action by the EDSC as deemed appropriate in Council deliberations during implementation and subsequent updates to this standard.

Drinking Water Programs

During its consideration of the Enforcement and Compliance Data Standard and the comments received during the outreach processes noted above, the Action Team found that the

substantive issues regarding definition and use of terms could be reconciled or accommodated in the standard through modification to the definitions, arrangement of data elements, additions to notes within the body of the standard, and appropriately selected permissible values lists.

There was one comment, however, that presented an exception. The Association of State Drinking Water Administrators (ASDWA) provided a comment regarding the term “compliance monitoring”: “In the drinking water program, ‘compliance monitoring’ refers to water samples collected to ascertain compliance with drinking water standards. These samples can be taken by the water system, state personnel, or a third party, depending on the individual state. The Enforcement/Compliance Data Standard uses the term ‘compliance monitoring’ in a different context. If OEI intends to include compliance monitoring conducted in the drinking water program in this data standard, the data standard would need to be further expanded to better reflect drinking water ‘compliance monitoring’.”²

The Action Team discussed this matter at length and could not devise a solution that would adequately reflect this variation in the usage of this term by drinking water programs. The Action Team is recommending that the EDSC pursue this matter during implementation of the standard through consultation with these programs to “....assist them in understanding the terms used in this Data Standard, how they relate to comparable terms used in the program, and how ‘mapping’ of data can be performed to satisfactorily implement this Data Standard.”³

Agriculture and Pesticide Programs

The State Action Team representatives participating in the standard development process were all from enforcement and compliance programs associated with environmental regulatory entities that, as it happens, do not manage the pesticides programs for their jurisdictions; only one EPA Action Team representative included the pesticide program within his areas of responsibility. As such, the Action Team recognizes its limitations in representing the interests, unique data elements, and business needs of agriculture and pesticide regulation programs. Although we believe that the degree of conformance between terminology and business process for these programs with those of other environmental regulatory programs will be high, specific knowledge of and experience with information now exchanged between partners in agriculture and pesticide compliance programs did not substantially inform the process of developing the Enforcement and Compliance Data Standard.

²Draft Enforcement/Compliance Data Standard Responses to Consolidated Comments from October 4, 2001 Federal Register Notice (66 FR 50644), Pages 16, 17.

³Ibid.

The Action Team again recommends that the EDSC consider and pursue this matter through consultation with such groups as the Association of States Departments of Agriculture, State FIFRA Issues Research and Evaluation Group (SFIREG), and other appropriate programs during implementation of the standard.

Documents To Be Included In EDSC Posting and Archiving of Standard

The Action Team recommends that the following documents regarding the Enforcement and Compliance Data Standard be provided to the public and user community via the EDSC Web site and the Environmental Data Registry (EDR):

1. This "Transmittal Memorandum" Dated January 25, 2002
2. The "Draft Enforcement/Compliance Data Element List" dated January 25, 2002
3. The "Responses to Consolidated Comments from October 4, 2001 Federal Register Notice (66 FR 50644)" dated January 25, 2002
4. The "Frequently Asked Question List" dated January 25, 2002

Membership List of the Enforcement and Compliance Data Standard Action Team

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